UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

CITAK & CITAK, DONALD CITAK and BURTON CITAK,

Civil Action No. 07 CIV 5459

Plaintiffs,

NOTICE OF MOTION

-against-

THE ST. PAUL TRAVELERS COMPANIES, INC. a/k/a ST. PAUL FIRE AND MARINE INSURANCE COMPANY,

PLEASE TAKE NOTICE that upon the Declaration of Jonathan R. Harwood, dated February 8, 2008, the exhibits annexed thereto, the accompanying memorandum of law and the prior pleadings and proceedings herein, defendants The St. Paul Travelers Companies, Inc. a/k/a St. Paul Fire and Marine Insurance Company will move this court on April 4, 2008, at 12:00 noon, before the Honorable William H. Pauley, III at the United States Federal Courthouse, 500 Pearl Street, New York, NY 10007, for an order dismissing plaintiff's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, together with such other relief as this court deems appropriate.

Dated: February 8, 2008

Hawthorne, New York

TRAUB LIEBERMAN STRAUS &

SHREWSBERRY LLP

By:

Jonathan R. Harwood (JH 9060)

Attorneys for Defendants

The St. Paul Travelers Companies, Inc. a/k/a St. Paul Fire and Marine Insurance Company Mid-Westchester Executive Park

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Seven Skyline Drive

Hawthorne, New York 10532

(914) 347-2600

To: Peter Wessel, Esq.

Law Office of Peter Wessel, PLLC 270 Madison Avenue, Suite 1203 New York, New York 10016 Mineola, New York 11501

## **AFFIDAVIT OF SERVICE**

STATE OF NEW YORK	)	
	)	SS.
COUNTY OF WESTCHESTER	)	

Christina Golino, being duly sworn, deposes and says:

That deponent is not a party to the within action and is over 18 years of age.

That on the 8<sup>th</sup> day of February 2008, deponent served the within **NOTICE OF MOTION**AND DECLARATION OF JONATHAN R. HARWOOD IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS upon the attorney(s) for the respective party(ies) in this action, at the address listed below, such address designated by said attorney for that purpose via Electronic Case
Filing System.

TO: Peter Wessel, Esq.
Law Office of Peter Wessel, PLLC
270 Madison Avenue, Suite 1203
New York, New York 10016
Mineola, New York 11501

E-mail: Peterwessel@wessellaw.com

CHRISTINA GOLÍNO

Sworn to before me this 8<sup>th</sup> day of February, 2008

Notary Public

CLAUDINE N. BONCI Notary Public, State of New York No. 01BO5015056 Qualified in Westchester County Commission Expires July 12, 2011